



## *Nevada State Board of Medical Examiners*

### **\* \* \* MINUTES \* \* \***

#### **OPEN SESSION EMERGENCY TELEPHONE CONFERENCE CALL BOARD MEETING**

Board Office Conference Room  
1105 Terminal Way, Suite 301, Reno, NV 89502

**THURSDAY, DECEMBER 15, 2005 - 1:00 p.m.**

##### *Board Members Present at Board Office*

Jean Stoess, M.A.

##### *Board Members Present by Telephone*

Javaid Anwar, M.D., President  
Sohail U. Anjum, M.D., Vice President  
Marlene J. Kirch  
S. Daniel McBride, M.D.  
Benjamin J. Rodriguez, M.D.

##### *Staff Present at Board Office*

Drennan A. Clark, J.D., Executive Director/Special Counsel  
Laurie L. Munson, Deputy Executive Director  
Bonnie S. Brand, J.D., General Counsel  
Edward O. Cousineau, J.D., Deputy General Counsel  
Lyn E. Beggs, J.D., Deputy General Counsel  
Douglas C. Cooper, Chief of Investigations  
Lynnette L. Krotke, Chief of Licensing  
Heather L. Higgins, Investigator  
Shawna M. Rice, Investigator  
Angelia L. Donohoe, Legal Assistant

##### *Also Present by Telephone*

Dianna Hegeduis, J.D., Chief Deputy Attorney General

#### **CALL TO ORDER**

The AT&T telephone conference call operator took roll call, and the meeting was called to order at 1:10 p.m.

### **IN THE MATTER OF DANIEL FIGLIO, C.R.T.**

Deputy General Counsel, Edward O. Cousineau, J.D., stated the meeting had been convened for the purpose of contemplation of summary suspension of the license to practice respiratory care of Daniel Figlio, C.R.T. Mr. Cousineau then asked whether all participating Board members had received and reviewed the materials sent to them prior to the meeting concerning this matter, specifically the complaint, the request for summary suspension and four accompanying exhibits, and all members indicated they had.

Mr. Cousineau then stated the meeting had been convened pursuant to the emergency meeting standard enunciated in NRS 241.020(7), as it was felt the subject of the meeting, Daniel Figlio, C.R.T., poses an imminent threat to the health and safety of the public, and that the public health, safety and welfare require emergency action and summary suspension of Mr. Figlio's license to practice respiratory care in the state of Nevada pending a hearing on the complaint.

Mr. Cousineau explained that the Board received notice of the criminal complaint against Mr. Figlio on April 29, 2005; however, the Board was unable to properly proceed against Mr. Figlio without a conviction from the adjudicating criminal court. A judgment of conviction was filed with the Clark County District Court on November 28, 2005, and the Board received notice of the filing from the Court shortly thereafter.

Dr. Anjum stated that following the incident at University Medical Center (UMC), UMC notified the Board of the arrest and subsequent suspension of Mr. Figlio from the practice of respiratory care. As a result, he has not been working and has had no patient contact since that time.

Mrs. Kirch asked whether the Board could have considered summary suspension of Mr. Figlio's license at the time Mr. Figlio signed the guilty plea agreement in August, pending entry of judgment by the court. Mr. Cousineau explained that plea agreements do not become official until a court canvasses a defendant at sentencing and a judgment of conviction is entered, and therefore it was prudent to wait until that occurred. Ms. Hegeduis added that by waiting until the court approved the plea agreement and the conviction was entered, the Board was on more solid ground since there was no possibility of Mr. Figlio retracting his statements at that point.

Mr. Cousineau read from the proposed Order of Summary Suspension, as follows:

"The adjudicative panel reviewed the Investigative Committee's Complaint, the request for summary suspension contained therein, and the attached affidavit and exhibits. Upon review of the Complaint, request for summary suspension and attached affidavit and exhibits, as well as the argument and presentation of counsel for the Investigative Committee, the adjudicative members of the Board find and conclude by a preponderance of evidence:

1. That unforeseen circumstances have arisen and exist that pose a risk of impairment of the health and safety of the public and that require immediate Board action.

2. That the Nevada State Board of Medical Examiners recently received a Judgment of Conviction which was filed in the Clark County District Court on November 28, 2005, indicating that on November 8, 2005, Respondent was convicted of one count of Attempt Sexual Assault, a Category B felony in the state of Nevada. Further, the victim of Respondent's criminal conduct was a patient, whom Respondent came into contact with during the course of his practice as a Certified Respiratory Therapist.

3. That the terms of the Judgment of Conviction indicate that Respondent was sentenced to the Nevada Department of Corrections for a minimum of thirty-six months and a maximum of one hundred twenty months. Further, the Judgment of Conviction indicates that the sentence was suspended and Respondent is currently on probation. Therefore, as of the date of this Complaint, it is the Board's understanding that Respondent is not currently incarcerated.

4. That Respondent is still actively licensed to practice respiratory care in the state of Nevada, and it is the Board's belief that Respondent's ability to continue to practice respiratory care would allow Respondent access to members of the patient public, and therefore Respondent's continued ability to practice respiratory care poses a risk to the health, safety and welfare of the public.

Now therefore, pursuant to NRS 630.329, it is hereby ordered that the license of Respondent, Daniel Figlio, CRT, to practice respiratory care in the state of Nevada is hereby suspended pending proceedings for disciplinary action pursuant to the Complaint filed herein and issuance of a final order, or until further order of this Board. Dated this 15th day of December, 2005, by Javaid Anwar, M.D., Board President."

Mrs. Kirch moved that the Board approve the proposed Order. Ms. Stoess seconded the motion, and it passed unanimously.

### **ADJOURNMENT**

Dr. Anwar adjourned the meeting at 1:30 p.m.